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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,199	11/01/2006	Yumiko Katsukawa	LSN-2382-56	6770

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NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

EXAMINER
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DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3771

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12/21/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,199	<b>Applicant(s)</b> KATSUKAWA ET AL.	
	<b>Examiner</b> Danton DeMille	<b>Art Unit</b> 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,10,11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10,11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Specification**

The amendment filed 24 December 2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

Claim 1 now recites “said control section sets the spouting width to be shorter than an entire length of the foot in the longitudinal direction”. There doesn’t appear to be any support in the original specification for this limitation. While applicant argues that support for this language is found in figures 3, 5 and 11, these figures only show the device and foot in the longitudinal direction. The width of the spouting water would be in the direction perpendicular to the drawings. These drawings do not show the variable width of the spouting water as compared to the entire length of the foot. The spouting width would appear to be shown in figure 4 however, the spouting width is a function of the nozzles 34 and not a function of the control section.

Claim 1 now recites “said control section sets the spouting width to be shorter than an entire length of the foot”. It is not clear where there is support in the original specification for the control section 50 being able to set with spouting width of the nozzle. That would appear to be a function of the size of the nozzle and not some control from the control section 50.

Claim 1 also now recites that the control section is configured to control the water spouting section “so as to move the portions receiving the spouted water”. There doesn’t appear to be support in the original disclosure for the control section to move portions of the foot that

receive the spouted water. While applicant argues support for this language can be found on page 20, line 18 through page 21, line 5, and figure 3, this would appear to support the control section moving the water longitudinally along the foot.

Applicant is required to cancel the new matter in the reply to this Office Action.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 13, 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rolando et al. (US 4,485,503).**

As understood and broadly recited, Rolando teaches in figure 3, for example, a foot-front water spouting section 143 for spouting water toward a front side of the foot.

Rolando also teaches a water-spouting section direction moving mechanism by the rotating mechanism in manifold 143. As a water spout rotates from a lower portion to an upper portion it would move the direction of water spouting along a longitudinal direction.

A control circuit is also taught, column 2, lines 56-62, for controlling the water spouting section direction moving mechanism.

The front foot water spouting section 143, has a plurality of water-spouting nozzles 146 arranged side-by-side in the foot width direction, as seen when the spouting section 143 is horizontal, for each foot. Each nozzle of the water spouting section 143 has a width causing a part of the foot in a longitudinal direction to receive spouted water. As the spouting section rotates the spouting width of a nozzle near the lower toe portion of the foot rotates to an upper

location, the spouting water would spout water in a longitudinal direction. As the nozzle continues to rotate around, the spouting width would also traverse the width of the foot.

To any extent applicants control section 50 can set the width of the spouting width to be shorter than the length of the foot so does Rolando. When a nozzle is in the uppermost position it is causing spouted water to reach only the back part of the foot. As the spouted water rotates around, portions of the foot receiving no spouted water in the front of the foot would receive water from the spouted width of a nozzle.

The control circuit section is configured to control the water-spouting section direction moving mechanism by controlling the flow of water to the water-spouting section 143. The spouted water moves in a longitudinal direction of the foot from a toe side to an ankle side when a particular nozzle closest to the toes moves from a lower position to a higher position. Rolando would appear to comprehend the claimed invention.

Regarding claim 4, the path of movement includes the toe.

Regarding claims 13, 14, Rolando teaches a sole water spouting section 142 that also reciprocates a water arrival point along a longitudinal direction of the foot.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 10, 11, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rolando et al. ‘503.**

Rolando teaches a water-spouting section 143 that is rotatable about a horizontal axis as the water arriving point is moved along the longitudinal direction of the foot as the water spouted from the water spouting section rotates from bottom to top. Rolando appears silent with regard to exactly how this is accomplished however a rotary shaft is well known means for rotating elements and would have been an obvious provision.

Regarding claim 11, the rotary shaft of the spouting section 143 is closer to the top tip side from that in the container body in use.

Regarding claim 15, Rolando teaches an operation cycle that includes a washing cycle, a rinsing cycle and a drying cycle. Being able to control the pressure or the amount of water used between the washing cycle and the rinsing cycle would have been obvious in order to be more economical on water use. The washing cycle would use higher pressure water to be a more effective at washing the feet. Whereas, the rinsing cycle can save water by using less water at lower pressure.

**Claims 1, 2, 4, 10, 11, 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guzzini (EP 0423852) in view of Ahn (US 6,602,212).**

Guzzini teaches a foot-front water spouting section 15, 16 capable of spouting water toward the bottom of a front side of the user's foot.

A water-spouting section direction moving mechanism configured to move the direction of the water spouting section along a longitudinal direction of the user's foot. As shown in figure 2, the center and rear nozzles 15 are shown pivoting to different positions that cover the longitudinal direction of the user's foot.

Guzzini teaches a control section 19 for controlling the device.

The water spouting section that is under the foot-front section is configured to continuously spout water with a spouting width causing a part of the foot in the longitudinal direction to receive spouted water and the spouting width traverses the width of the foot as it rotates around.

To any extent applicants control section sets the spouting width of each nozzle so does Guzzini.

The control section is configured to control the water-spouting section direction moving mechanism so as to move the nozzles along the longitudinal direction of the foot from a toe side to an ankle side by moving the spouted water toward portions of the foot that have not yet receive spouted water.

Guzzini teaches “the number of nozzles for each foot can be readily increased so as to better localize and articulate the massage action”, column 3, lines 26-29.

Ahn is cited to show what Guzzini suggests. It would have been obvious to one of ordinary skill in the art to modify Guzzini to increase the number of nozzles for each foot so that there are side-by-side nozzles arranged across the foot as taught by Guzzini and Ahn so as to better localize and articulate the massage action.

Regarding claims 10 and 11, the nozzles of Guzzini are mounted for pivotal rotational movement that inherently would be supported by a rotary shaft. Additionally, rotary shafts are old and well known. It would have been obvious to one of ordinary skill in the art to modify Guzzini to support the pivotal motion using a rotary shaft to provide the pivoting rotation motion.

**Claims 5-8 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Rolando '503 or Guzzini and Ahn as applied above and further in view of Pisani '447.**

Pisani teaches a leg water-spouting device, paragraph 44, line 4, that has controls to selectively change water pressure level, pulse rate, sweep speed, duration of massage time, temperature of the water and to be able to cease longitudinal motion in order to massage a single location, paragraph 43. Pulsing the water pressure would appear to change the flow and pressure cyclically from zero to the desired flow and pressure. It would have been obvious to one of ordinary skill in the art to modify either Rolando or Guzzini to control the motion of the water spouting section to be able to vary the pressure, location, period and amount as taught by Pisani in order to achieve the optimum desired therapy for a particular patient's needs.

#### **Response to Arguments**

Applicant's arguments with respect to claims 1-8, 10, 11, 13-17 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues page 14 that the instant invention is contrived to spout water with a width which has a length in the foot width direction which is broad while a length in the longitudinal direction is narrow. It is not clear how much weight can be given this argument when such language is not found in the claims.

Applicant argues page 16 that Rolando's foot-front water spouting section 143 is a manifold which rotatable for uniformly spouting the water onto an entire front side of the foot as shown in figure 3. That may be true when considering all of the nozzles during a complete cycle of operation. However, when looking at just one nozzle, such as the top nozzle of the manifold



143, the nozzle would be spraying the back portion of the foot as noted by the arrows showing direction of spray. The top nozzle would not be spraying the toe of the foot for example.

However, as the same nozzle rotates around it would also be moving downward and closer to the foot thereby spraying more of the foot in the longitudinal direction.

Applicant also argues that Rolando does not teach the nozzles spout water with a spouting width that traverses the width of the foot. The spray nozzles of Rolando as they rotate around from one side of the container to the other they also move in the width direction of the foot thereby spraying different portions across the width of the foot as it moves from one side of the foot to the other.

Applicant also argues on page 16 that Rolando does not teach the spouted water is shorter than an entire length of the foot in the longitudinal direction. As noted above, the nozzle at the top of the manifold in figure 3 would not be spraying the toe portion of the length of the foot and therefor is shorter than the entire length of the foot.

On page 17, applicant argues that Rolando does not disclose that the direction of the spouted water is moved, in turn, from portions receiving the spouted water toward the portions having received no spouted water along the longitudinal direction. As noted above, the top nozzle at the top position shown in figure 3 would be spraying the back portion of the foot and as it rotates around it would also be moving downward and closer to the foot front thereby spraying more of the foot in the longitudinal direction.

### **Response to Arguments**

Applicant's arguments with respect to claims 1, 2, 4-8, 10, 11, 13-17 have been considered but are not persuasive and are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974.

The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

20 December 2010

*/Danton DeMille/*

Danton DeMille  
Primary Examiner  
Art Unit 3771